

AFFIDAVIT

I, TIMOTHY P. SHELTON, being duly sworn, do hereby depose and say:

Background

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), and have been since August of 2003. I am currently assigned to the ATF Allentown Field Office and some of my responsibilities include the investigation of federal firearms laws, explosives laws and violent crime. During my tenure as an ATF agent, I have conducted and participated in numerous investigations, which have resulted in the arrest and prosecution of individuals who have committed violations of federal law, including explosive violations, firearms offenses, and illegal firearms trafficking. In addition, in 2011, I completed a two-year program at ATF to become a Certified Explosives Specialist (CES). This training was centered on the identification of explosives, military ordnance, and the safe handling and disposing of explosives. As part of my duties as an ATF Certified Explosives Specialist, I investigate cases involving unregistered destructive devices and illegal possession of explosives, in violation of Title 26, United States Code, Sections 5861(d), 5845(a)(8) and Title 18, United States Code, Sections 842(i) and 844(j).

2. This Affidavit is made in support of a Search Warrant Application for authority to seize and search a three-tone black, gray, and plum colored backpack and any associated pockets and pouches, located at Lehigh County Jail, at 38 N. 4th Street, Allentown, Pennsylvania, for evidence, contraband, and as property designed for use, intended for use, or used in committing a crime against the United States, specifically in violation of Title 26, United States Code, Sections 5861(d), 5845(a)(8) and Title 18, United States Code, Sections 842(i) and 844(j), as more particularly described in "Attachment A" hereto. The backpack has the additional

characteristics: black colored bottom, larger backpack storage compartment colored gray and black with zipper entry, and smaller front pocket storage compartment colored plum and gray with zipper entry.

3. This Affidavit is based upon my personal knowledge, experience and training, and other information developed during the course of this investigation. This Affidavit is also based upon information and experience imparted to me by other law enforcement officers and witnesses. This Affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. I have set forth only the facts that I believe are necessary to establish probable cause to believe that violations of Title 26, United States Code, Sections 5861(d), 5845(a)(8) and Title 18, United States Code, Sections 842(i) and 844(j) have been committed by Brian James Kunsman and that his three-tone black, gray, and plum colored backpack and its associated pockets and pouches attached, detached or within, located Lehigh County Jail, at 38 N. 4th Street, in Allentown, Pennsylvania is evidence of these violations.

4. Based on the facts set forth in this Affidavit, there is probable cause to believe that violations of Title 26, United States Code, Sections 5861(d), 5845(a)(8) and Title 18, United States Code, Sections 842(i) and 844(j), have been committed by Brian James Kusman. There is also probable cause to believe that the backpack and its associated pockets and pouches located in Lehigh County Jail's custody is evidence of Kunsman's crimes.

Facts Establishing Probable Cause

5. On October 15, 2021, SA/CES Timothy P. Shelton responded to the Emergency Room of St Luke's University Hospital located at 801 Ostrum Street in Bethlehem, Pennsylvania for the report of a recovered destructive device from an emergency room patient. The Allentown Bomb

Squad was on scene and had removed the suspected destructive device from the Emergency Room area to render it safe.

6. Once on location SA/CES Shelton was informed that Brian James Kunsman of Philmont Avenue Apartments in Philadelphia had been involved in a car accident in Lower Saucon Valley Township and was brought to the Emergency Room by ambulance in the early morning hours of October 15, 2021.

7. While being treated at the hospital Kunsman asked an attending nurse to help him find his cellphone. During this process the nurse observed what she thought to be a suspicious device in his three-tone black, gray, and plum colored backpack and its associated pockets and pouches. In addition, the nurse observed suspected narcotics in a glass jar recovered from Kunsman's pants.

8. The Borough of Fountain Hill Police Department was notified, and the Emergency Room was evacuated. During the initial incident inside the Emergency Room the suspicious device was brought outside to a garbage can hospital staff and security. The suspicious device was described as a short copper pipe with its ends hammered down, and a green fuse.

9. The Allentown Bomb Squad moved the device to a safe location so that it could be x-rayed. The x-ray showed that it contained powder and a fuse. The device was then taken to the bunker of the Allentown Bomb Squad for it to be exploited and rendered safe.

10. On October 15, 2021, ATF SA/CES Shelton and Federal Bureau of Investigation (FBI) Special Agent and Bomb Technician (SA/BT) Jared Witmier interviewed Brian James Kunsman relative to the device found in his backpack in the Emergency Room. SA/CES Shelton read Kunsman his rights from ATF Form 3200.4 (Advice of Rights and Waiver) and asked if he would be willing to waive his rights to talk to investigators. Kunsman agreed and signed the

waiver on ATF Form 3200.4. SA/CES Shelton informed Kunsman that he could stop the questioning at any point, and Kunsman related that he understood.

11. ATF SA/CES Shelton and FBI SA/BT Witmier asked Kunsman about the destructive device recovered from his backpack. Kunsman stated that he had built it on his own using a piece of copper pipe. Kunsman related that he was on a job and found shotgun shells. He explained that he used the powder and pellets from two shotgun shells to fill the pipe. Kunsman stated that prior to putting the powder in, he first drilled a hole for the fuse. Kunsman said used a fireworks fuse for the device. He hot glued on end of the device poured the powder in, and then used a hammer to hammer down each side of the pipe.

12. On October 15, 2021, The Borough of Fountain Hill Police Department arrested Kunsman for possession of weapons of mass destruction and narcotics under Pennsylvania State law. Kunsman was arrested and placed into custody at Lehigh County Jail, and at that time his personal belongings were taken into custody by the jail. This included the three-tone black, gray, and plum colored backpack and its associated pockets and pouches that Kunsman used to carry and transport the destructive device.

13. On October 19, 2021, ATF SA/CES/BT SarahJane Serafino conducted an exploitation of the destructive device recovered from the hospital. This exploitation took place at the Allentown Fire Department Bomb Disposal Unit. During this process SA/CES/BT Serafino was able to determine the device contained a suspected explosive powder along with metal shot. The device itself was constructed from a copper pipe, and both ends were hammered down. There was a hole drilled in the center for a fuse.

14. A sample of the suspected explosive powder, fuse, and the copper pipe were sent to the

ATF Forensic Science Laboratory for further analysis. On December 2, 2021, the ATF Forensic Laboratory issued a report (Lab #2021-W-000577) with its results. ATF Forensic Chemist, Michelle B. Clarke, PhD. performed the analysis and determined the powder contained disc-shaped single-base smokeless powder and metal shot, which is an explosive.

15. On January 14, 2022, SA/CES Shelton and Borough of Fountain Hill Police Department Investigator Rick Krasley interviewed the attending Emergency Room nurse, Kristen Reuss, relative to a destructive device recovered from Kunsman's backpack and its associated pockets and pouches in the Emergency Room of St. Luke's Hospital. Reuss is a Registered Nurse and was present when the recovery occurred on October 15, 2021, from Kunsman.

16. Reuss explained that on October 15, 2021, she had started her shift sometime around 7:00 a.m. and was assigned Kunsman as a patient. She was told by her supervisor that Kunsman was already cleared for discharge. Reuss explained that she noticed that Kunsman was not from the area and went into the room to see if he had a way to get a ride home.

17. Reuss explained that during this discussion with Kunsman he inquired where his cellphone was, and asked Reuss if she could search his items in the room, which included a pair of pants and the three-tone colored backpack. Kunsman told Reuss that she could search all of his items. Reuss then picked up his pants that were located on the floor. She noticed something in the front pocket of the pants and pulled it out. Reuss described it as a glass jar half filled with a white powder. Reuss stepped outside the room with the jar as she suspected the white powder was a narcotic.

18. Reuss then stated that she asked others out by the nurse's station if they suspected that the jar contained narcotics, and they agreed. Reuss stated that there was a Bethlehem Police Officer on the floor of the emergency room dealing with another patient, and the officer agreed that it

looked like narcotics. Reuss contacted security to alert them, and during this time she also retrieved Kunsman's three-tone black, gray, and plum colored backpack and its associated pockets and pouches from the room.

19. Reuss stated that when she had the backpack outside the room, she noticed in the front pocket/pouch there was a tube-like item. Reuss described this pocket/pouch as being constructed of mesh material that she could see through. Reuss suspected that the item was related to drug use and removed it from the pocket/pouch.

20. Reuss stated that she removed a copper pipe and showed it several people at the nurse's station. Reuss explained that they all believed the object to be a "pipe bomb." Reuss recalled that at this time her supervisor and hospital security ultimately moved the device outside of the emergency room.

21. On January 20, 2022, a federal grand jury in the Eastern District of Pennsylvania, indicted Brian James Kunsman, charging him with one count of possession of an unregistered firearm, in violation of Title 26, United States Code Sections 5861(d), 5845(a)(8), (f)(1)(A) and 5871, and one count of possession of an explosive by a felon, in violation of Title 18, United States Code, Sections 842(i)(1), (p) and 844(j). Kunsman has a prior conviction for a felony crime that was punishable by a term of imprisonment exceeding one year.

22. On January 24, 2022, Kunsman was arrested pursuant to a federal arrest warrant and had an initial appearance before the Honorable Pamela A. Carlos, United States Magistrate Judge. Kunsman was ordered detained pending trial, as such, he is now in federal United States Marshals custody and his three-tone black, gray, and plum colored backpack and its associated pockets and pouches remains in custody of the Lehigh County Jail.

23. Based on the foregoing information, I submit there is probable cause to believe that the

three-tone black, gray, and plum colored backpack and its associated pockets and pouches were used by Kunsman to carry and transport the destructive device on October 15, 2021, and is evidence of violations of Title 26, United States Code, Sections 5861(d), 5845(a)(8) and Title 18, United States Code, Sections 842(i) and 844(j), committed by Brian James Kusman.

24. Based on the foregoing information, I submit there is probable cause to seize and search the three-tone black, gray, and plum backpack and its associated pockets and pouches being held in custody by the Lehigh County Jail located at 38 N 4th Street, Allentown, Pennsylvania.

s/Timothy P. Shelton
TIMOTHY P. SHELTON

Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn and subscribed before me
this 31st day of January, 2022:

Pamela Digitally signed by
A. Carlos Pamela A. Carlos
Date: 2022.01.31
13:21:42 -05'00'

HONORABLE PAMELA A. CARLOS
United States Magistrate Judge

ATTACHMENT A

Property to be Seized and Searched.

Three-tone black, gray, and plum colored backpack with a black colored bottom, larger backpack storage compartment colored gray and black with zipper entry, and smaller front pocket storage compartment colored plum and gray with zipper entry, and its associated pockets and pouches that are attached, detached or within.

